IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.8219 OF 2004

M/s. Veracity Menswear & Anr. .... Petitioners
Vs.
Govinddas Shamaldas Gandhi .... Respondent

Sarvasri N.V. Walawalkar with Anand R. Patil for the Petitioners.
Shri V.S. Gokhale for the Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: OCTOBER 12, 2004

P.C:

1. Heard the learned Advocates for the parties.

2. The petitioners challenge the concurrent findings arrived at by the Courts below in relation to the bona fide need of the premises for personal occupation of the respondent. Both the Courts below have clearly held that undoubtedly the respondent has three storey building, however, the entire building has been let out and in possession of the tenants. The Courts below have also held that it is an admitted fact that the respondent-plaintiff is residing in a tin-shed room which belongs to the share of his adopted brother and not himself. The Courts below have also held that it is the case of the respondent that it is for him to make the choice and he has made the choice in relation to the

suit premises as being required for his personal occupation. Indeed, the law in that regard is well-settled that it is for the landlord to decide about the place which is required for his occupation. When the entire building has been let out to different tenants, it is not for the tenants to dictate their choice to the landlord in that regard. Considering the same, no fault can be found with the findings arrived at by the Courts below on detail analysis of the evidence on record and on the basis of undisputed facts in the matter, in relation to the bona fide need of the suit premises for the occupation of the respondent/landlord. Being so, there is no case for interference in the said finding in exercise of powers under Article 227 of the Constitution of India. Hence, the petition is rejected.

3. On oral request by the learned Advocate for the petitioners, time to vacate the suit premises is extended till 28-2-2005, subject to submitting undertaking by the petitioners and every major member of the petitioners' family as well as those occupying the premises, to be filed before the Registrar (Judl.) of this Court within three weeks from today assuring that the petitioners shall handover the vacant and peaceful possession of the suit premises to the respondents/landlord on or before 28-2-2005 and shall not induct any third person nor shall create any third

party interest in the suit premises.